

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rule Making of the)	RM-9260
Community Broadcasters Association)	
to Establish a "Class A" Television Service)	

**Reply-Comments of
J. Rodger Skinner, Jr.
Skinner Broadcasting, Inc.**

Skinner Broadcasting, Inc. and its president J. Rodger Skinner, Jr., pursuant to Section 1.405(a) of the Commission's Rules, 47 C.F.R. Sec. 1.405(a), respectfully submits these reply-comments in response to the petition for rulemaking filed by the Community Broadcasters Association ("CBA") in the above captioned proceeding.¹ The Petition proposes to elevate the status of certain qualifying Low Power Television stations from secondary status to fully-protected primary status ("Class A status"), in order to provide these stations with some semblance of order in an otherwise chaotic situation that could result in their destruction.

This commenter participated in the rulemaking process starting in 1979 through the creation of the Low Power Television ("LPTV") service in 1982 and has watched this service grow into a truly wonderful local service providing substantial benefits to the communities served by these LPTV and translator stations. In the beginnings of the LPTV service it was decided to make it a "secondary service" as that term relates to interference protection to full-

¹ See Advanced Television Systems and Their Impact Upon the Existing Television Service, Petition for Rulemaking, RM-9260, filed September 30, 1997 and amended March 18, 1998, by CBA (the "Petition"). See Public Notice, Petition for Rulemaking Filed For "Class A" TV Service, RM-9260, Mimeo No. 82996 (Mass Media Bureau, released April 21, 1998)(the "Class A Public Notice").

power television stations. Indeed, the protection standards developed allowed LPTV stations to fill areas too small to allow operation of a full-power TV station without causing interference to other stations. Thus the term “secondary status” meant only that LPTV stations could not cause interference to full-power television stations, no more, no less. This must be remembered since over time opponents of the LPTV service have tried to expand the definition of “secondary service” to unreasonable levels. Since 1980, LPTV applicants applied for their station licenses knowing that their channel could be displaced only by a new full-power TV station or one changing its antenna site and/or power such that it would then receive interference from the LPTV station. Although this displacement threat was real and prevented many from access to capital from banks and other sources, most LPTV applicants financed their construction and operating costs from their life savings. The risk of a full-power TV station moving its antenna site was small, since most were on very tall towers and had been there for years, thus diminishing the threat of the “secondary service” held by LPTV stations. In the rare instance where a LPTV station would have been displaced, the Commission then had in place special procedures that allowed the LPTV station to move to another channel without being subject to competing applications (outside a filing window). The point is, “secondary service” status of LPTV was more of an irritant than a fatal threat of total displacement and loss of a business (station). As such, many LPTV applicants were willing to risk their life savings under these conditions that then prevailed. Those conditions have now changed.

When the Commission decided to create the digital television service, it became necessary to make available twice the number of TV channels nationwide that had previously

been in use, in order that each full-power TV station would have an additional channel on which to build its digital station. Against the wishes of many in Congress, the full-power stations received these channels for free (exempted from auctions). This doubling of channel capacity is what has created a devastating effect on the LPTV industry and now threatens it with extinction, unless RM-9260 is enacted. What once was a manageable situation (“secondary status”,) has now become the doomsday mechanism for the obliteration of the entire LPTV service, if left unchanged.

Enactment of RM-9260, with the minor changes suggested by this commenter in earlier comments in this proceeding, can save the LPTV industry and the many stations that serve their local communities well. The level of service of LPTV stations is a matter of record at the Commission and was eloquently expressed by many LPTV station owners who have filed comments in this proceeding. While still not allowed to cause interference to existing full-power and LPTV/translator stations, under RM-9260, LPTV stations that have survived displacement by the digital allocation table² will be able to continue to operate and serve their communities, free from the constant worry of displacement from full-power stations or future primary services created by the Commission. There are many LPTV stations that have been displaced by the channels provided in the digital allocation table and many of these stations have applied to move to new channels, under somewhat relaxed interference taboos provided by the Commission in the Sixth Report & Order (MM Docket No. 87-268). As of June 5, 1998, the Commission’s LPTV Branch reported receiving over 1,100 such LPTV applications seeking to move to new channels after being displaced by digital TV stations. Here is the crux

² Memorandum Opinion and Order on Reconsideration of the Sixth report & Order, MM Docket No. 87-268, FCC 98-24, Para. 1 (adopted Feb. 17, 1998, released Feb. 24, 1998)(“MO&O on Reconsideration of Sixth R&O”)

of this issue - - These LPTV stations face an enormous burden of moving to a new channel, which in many cases means moving to a new antenna site, requiring purchase of new equipment such as transmitter, antenna, transmission line and installation expenses. This cost of moving to a new channel to avoid displacement is substantial and a heavy burden on the limited resources of LPTV station owners. I know in my own case, having filed an application to move my Fort Lauderdale, FL LPTV from displaced Channel 27 to Channel 48, the costs are several times that of building the initial station on Channel 27. For example, to avoid interference on the only channel available for my use, I have to co-locate on a 1,049 foot tower in the areas antenna farm with a full-power station. Thus my antenna site rent will triple! Plus, the new transmitter required will cost more than twice the cost of my current Channel 27 transmitter. I estimate the cost of construction to be in excess of \$200,000, which will use the vast majority of my life savings. At this point in time, I am forced to ask myself this question. Is it good business to invest nearly all my life savings into a station of "secondary status" that could be put out of business (displaced) by full-power TV stations moving antenna sites or by allocation of new digital channels in the future that could bump my station at any time? This illustrates perfectly the dilemma faced by not only myself but by the majority of LPTV station owners today. As stated above, over 1,100 LPTV owners have already filed for new channels as a result of being displaced. With the removal of the "secondary status" worry, as proposed in RM-9260, LPTV owners will invest their life savings willingly to build these new channels that will allow them to continue their much needed local service to their communities. Without this minimum protection, it is almost certain that the LPTV service will cease to exist. Ask yourself, would you, as a LPTV station owner, spend the remainder of your life savings to re-

build your displaced station on a new channel with no assurance that you would not be displaced again, resulting in loss of your investment and possible bankruptcy? I hope now you can see why enactment of RM-9260, with the minor modifications suggested in earlier comments, is essential to the very survival of the LPTV industry. Loss of these LPTV stations would not only be devastating to the station owners and their families but to the many communities they serve who depend on these station for local news and information.

Even with the relaxation of some of the interference taboos, there are a number of displaced LPTV stations that will not be able to relocate to a new channel, since the doubling of channels needed for digital operation has taken away many channels that could have been used. We have been told all along by the Commission that a certain number of displacements are inevitable. It appears now that this is true and unavoidable. What is avoidable however is the decimation of the entire LPTV industry, many of which are moving to new channels. If these new channels cannot be given permanent status, then they will be displaced once again at some point in the near future when the Commission allows new digital allocations, in addition to what exists in the current digital allocation table. Without permanent status Class A protection, these new LPTV channels could be displaced by future primary users of any service that might come along. In plain language, if Class A permanent status is not created for these remaining LPTV stations that move to new channels after being bumped from their original channels, they will be put out of business! The result will be loss of life savings and bankruptcies for those who have served their communities well only to be destroyed by regulation gone wrong.

I urge the Commission to ignore those self-serving organizations who have filed

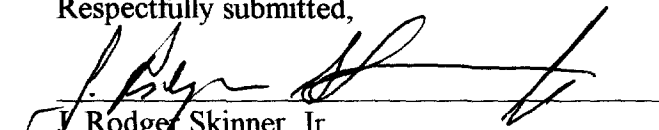
negative comments against creation of Class A permanent status for LPTV stations. The National Association of Broadcasters ("NAB") has demonstrated a complete lack of sensitivity to the plight of LPTV stations and has indeed argued for their demise by the policies it puts forth in its comments in this proceeding. Its arguments against Class A status for LPTV are unsubstantiated and remind me of the cry of an undisciplined child who wants all the toys for himself, leaving nothing for the others! We are standing on the doorstep of a new millennium, in which we have already seen the Commission give these full-power stations a free ride by giving them free digital channels, exempted from auctions, much to the chagrin of many in Congress. There is no need to give them any more perks. They have not shown that granting of Class A status to the remaining LPTV stations, as proposed in RM-9260, would have any great adverse impact on their facilities. Any minimal impact is far outweighed by the benefits derived by allowing LPTV stations to continue to survive and serve their communities. The comments requesting denial of RM-9260 of the NAB, the Association For Maximum Service Television, Inc. ("MSTV"), Association of America's Public Television Stations ("APTS"), Press Broadcasting, Cox Broadcasting, Inc and Motorola must be denied. Of the 69 comments filed in this proceeding, fully 91% were favorable recommending creation of Class A permanent status for LPTV stations. The comments of those few in opposition were transparent and predictable, seeking only to limit competition, in most cases. The arguments put forth by Motorola, seeking to protect land mobile interests were less than persuasive, especially given the large amount of spectrum given to such services in the recent reallocation of TV channels 60 through 69.

It is absolutely imperative that the Commission give some measure of life expectancy

to America's Low Power Television stations, at this time, for the reasons stated above. The Commission must not ignore this SOS distress call from the entire LPTV industry. Adoption of RM-9260, with the minor changes recommended in earlier comments, clearly will serve the public interest, convenience and necessity.

June 5, 1998

Respectfully submitted,


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CERTIFICATE OF SERVICE

I, J. Rodger Skinner, Jr., President of Skinner Broadcasting, Inc., do hereby certify that I have on this 5th day June of 1998, sent by First Class United States mail, postage prepaid, copies of the foregoing **REPLY-COMMENTS OF J. RODGER SKINNER, JR. ON RM-9260** to the following:

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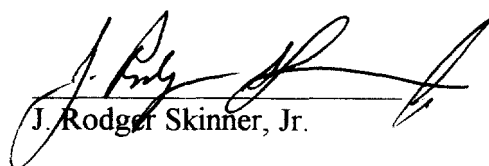
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